

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
JOHN MAUZY PITTMAN, CHIEF JUDGE

DIVISION IV

CACR08-59

November 5, 2008

STEVEN RICHARDS

APPELLANT

APPEAL FROM SALINE COUNTY  
CIRCUIT COURT [NO. CR-07-36-2]

V.

HON. GARY ARNOLD,  
JUDGE

STATE OF ARKANSAS

APPELLEE

AFFIRMED

Appellant was found guilty by a jury of committing second-degree battery and terroristic threatening. He argues on appeal that the evidence is insufficient to support his convictions for these offenses. We affirm.

In reviewing a challenge to the sufficiency of the evidence, we consider only the evidence that supports the verdict, viewing the evidence in the light most favorable to the State. *Harris v. State*, 72 Ark. App. 227, 35 S.W.3d 819 (2000). The test is whether the verdict is supported by substantial evidence, which is evidence of sufficient force and character that it will, with reasonable certainty, compel a conclusion one way or another. *Id.* Resolution of conflicts in testimony and assessment of witness credibility are for the fact finder. *Id.*

A person commits battery in the second degree if he intentionally or knowingly, without legal justification, causes physical injury to one whom he knows to be an officer or

employee of the state while that officer or employee is acting in performance of his lawful duty. Ark. Code Ann. § 5-13-202(a)(4)(D) (Repl. 2006). Viewing the evidence, as we must, in the light most favorable to the appellee, the record shows that the victim was employed as Court Liaison for the Office of Child Support Enforcement under the aegis of the Department of Finance and Administration. Appellant conceded at trial that he believed that the victim was a state employee. The victim's duties included traveling to various Arkansas counties and attempting to work out payment agreements between the custodial and non-custodial parents in lieu of formal contempt hearings. While employed in that capacity on December 14, 2006, the victim met with appellant in a jury room prior to a scheduled hearing in an attempt to work out an agreement regarding appellant's unpaid child support. Although the victim was civil and did not provoke appellant, appellant became enraged. He blamed his inability to pay on the State and the custodial parent, and told the victim, "I'm going to beat your f\*\*king face." Without provocation, appellant launched himself at the victim, knocking him to the floor and striking him with ten to fifteen hard blows. The victim's face was swollen, and there was blood on the wall. The victim went to the hospital emergency room with cuts and bruises to his head and other injuries to his neck, back, and knee. In addition, the victim has suffered constant ringing in his ears since the beating. We hold that this evidence is sufficient to support the second-degree battery conviction.<sup>1</sup>

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<sup>1</sup>In the context of his sufficiency argument, appellant complains that he should have been given a justification instruction in connection with the battery charge. However, because he neither requested nor submitted such an instruction at trial, this argument is waived. See *Ghoston v. State*, 84 Ark. App. 387, 141 S.W.3d 907 (2004).

A person commits the offense of terroristic threatening in the second degree if, with the purpose of terrorizing another person, the person threatens to cause physical injury or property damage to another person. Ark. Code Ann. § 5-13-301(b)(1) (Repl. 2006). When appellant was restrained by a court bailiff, he told the battery victim, "See, I told you I'd beat your f\*\*king ass." He then looked at the custodial parent and said, "And you're next, bitch." Appellant argues that this was not a sufficiently specific threat to support his conviction for terroristic threatening. We do not agree. We hold that, considered in light of what had just transpired, the jury could find that the meaning of appellant's remark to the custodial parent was more than clear. See *Lowry v. State*, 364 Ark. 6, 216 S.W.3d 101 (2005).

Affirmed.

HART and GRIFFEN, JJ., agree.